

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 657 of 2000

For Approval and Signature:

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Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
  5. Whether it is to be circulated to the Civil Judge? : NO

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GSRTC

Versus

MOHANBHAI MADHUBHAI PATEL

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Appearance:

MR NAGESH C SOOD for Petitioners

MR GK RATHOD for Respondent No. 1

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CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 14/06/2000

ORAL JUDGEMENT

#. The respondent Mohanbhai Madhubhai Patel was working as a conductor with the Gujarat State Road Transport Corporation (hereinafter referred to as the Corporation).

While on duty on 30.1.1997 a surprise check was made by the petitioner Corporation in the route where the respondent was working. During the surprise check it was found that the respondent did not issue tickets to 8 passengers even though he has realised money from them and after the surprise check a report was submitted regarding the misconduct of the respondent. Accordingly a charge sheet has been framed and departmental proceedings started against the respondent. The respondent filed reply against the charges framed against him. The inquiry was completed in accordance with law and the Inquiring Officer found that the charges as framed by the authorities against the respondent have been proved. On the basis of the report of the Inquiring Officer, the Disciplinary Authority, after hearing the respondent and after considering the report, dismissed the petitioner from service by order dated 20.6.1997. Having felt aggrieved by the order of dismissal, the respondent moved the Labour Commissioner who made a reference to the Labour Court, Surat and the reference has been registered as Reference (LCS) No.766 of 1997. The Labour Court by its judgment and award dated 23.7.1999 set aside the order of dismissal and passed an order for reinstatement of the respondent. However the Labour Court passed an order for withholding of 3 annual increments of the respondent with cumulative effect.

#. Having felt aggrieved by the order passed by the Labour Court, the petitioner Corporation filed the present petition for quashing the order of the Labour Court passed on 23.7.1999.

#. I have heard the learned counsel Mr. Sood for the petitioner and Mr. G.K.Rathod learned counsel for the respondent. The learned counsel for the petitioner submitted that the Labour Court has committed an error in setting the order of dismissal. It is further submitted by the learned counsel that the Labour Court did not find any irregularity in the proceedings of inquiry. The Labour Court has held that the charges as framed against the respondent were proved before the Inquiring Officer. However, the Labour Court has taken a lenient view considering the fact that the amount involved is very small and that the respondent did not deserve the punishment of dismissal. Accordingly, even though the Labour Court did not interfere with the finding of fact recorded by the Disciplinary Authority, the punishment was reduced by the Labour Court from dismissal to stoppage of 3 increments with cumulative effect. It appears that the Labour Court did not consider the earlier conduct of the respondent. It is submitted by

the learned counsel for the petitioner that earlier the respondent has committed similar offences on 13 occasions and he was imposed minor penalties for such offences. It is also found that since the respondent has repeatedly committed the offences of misappropriation of public money, he was ultimately dismissed from service. Mr. Rathod learned counsel for the respondent submitted that in the charge sheet framed by the corporation, it did not indicate the past offences. Now the past offences have been raised by the Corporation. The learned counsel for the respondent submitted that in the instant case it is alleged that the respondent has misappropriated a sum of Rs. 12/- by not issuing tickets to the passengers. Accordingly, the learned counsel for the respondent submitted that the Labour Court has correctly held that since the amount involved is small one, the respondent deserves some leniency in the matter of punishment. Learned counsel for the respondent however, very fairly submitted that stoppage of 5 increments with cumulative effect will be just and proper punishment for the respondent. I have gone through the papers of the judgment and award of the Labour Court. It appears that the Labour Court had also taken into consideration the past offences committed by the respondent and after considering the past conduct of the respondent the Labour Court has imposed the penalty of stoppage of 3 increments with cumulative effect. However, considering the conduct of the respondent that he has repeatedly committed the offence of misappropriation of public money, I am of the view that the Labour Court should not have taken the matter so lightly by withholding only 3 increments with cumulative effect.

#. In my view withholding of 5 increments with cumulative effect will meet the ends of justice. Having regard to the nature of offence committed by the respondent and considering the fact I am of the view that withholding of 5 increments with cumulative effect will be just and proper punishment in the present case. Accordingly the order of the Labour Court is modified to the extent that withholding of 5 (five) increments with cumulative effect is imposed on the respondent. It is submitted by the learned counsel for the respondent that inspite of the order of the Labour Court, the respondent has not yet been reinstated in service. The learned counsel for the petitioner submitted that the petitioner Corporation will reinstate the respondent within 15 days from the date receipt of this order. In view of the undertaking given by the learned advocate for the petitioner, I am of the view that no order is necessary in this respect. The respondent may file a copy of this

order before the petitioner Corporation . With the  
aforesaid observations and directions, the petition is  
disposed of with no order as to costs. Notice  
discharged.

(P.K.Sarkar.J)

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